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5. Trial (§ 206*)—Province of Court and Jury—Instruction—Weight of Evidence.—Juries are the judges of the credibility of witnesses, but they do not exercise an arbitrary discretion, and it is the court's duty, while not intimating its opinion upon facts, to instruct the jury on request or on its own motion, to enable them intelligently to consider and weigh contradictory and irreconcilable evidence.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 500; Dec. Dig. § 206.* 5 Va.-W. Va. Enc. Dig. 351; 14 Va.-W. Va. Enc. Dig. 415; 15 Va.-W. Va. Enc. Dig. 359.]

6. Evidence (§ 588*)—Weight of Evidence—Credibility of Witness.—The jury, in weighing contradictory and irreconcilable evidence, may consider the accuracy of each witness' recollection, the reasonableness and consistency of each part of his evidence with the rest of it, his interest in the controversy, and his demeanor while testifying.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. § 2437; Dec. Dig. § 588.* 5 Va.-W. Va. Enc. Dig. 354; 14 Va.-W. Va. Enc. Dig. 415; 15 Va.-W. Va. Enc. Dig. 359.]

Appeal from Circuit Court, Alleghany County.

Action by P. A. Jackson against the Low Moor Iron Company of Virginia. Judgment for plaintiff, and defendant brings error. affirmed.

DISTRICT ROAD BOARD OF CENTER MAGISTERIAL DIST.
OF FAUQUIER COUNTY *v.* SPILMAN.

Jan. 15, 1915.

[84 S. E. 103.]

1. Statutes (§ 123*)—Title—Road Board.—The titles of Acts 1910, c. 106, and Acts 1914, c. 107, which state that they are acts to amend a certain act entitled an act creating a road board for a certain county, and providing for the working of the roads therein, are sufficient to cover the provisions of those acts creating district road boards and authorizing the collection of tolls on macadam roads.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 176-183; Dec. Dig. § 123.* 12 Va.-W. Va. Enc. Dig. 777; 14 Va.-W. Va. Enc. Dig. 954.]

2. Statutes (§ 109*)—Title of Act—Amending Act.—Where the title of the original act is sufficient to cover the provisions of an amendment, the constitutional requirement is satisfied and the title of the amending act is immaterial.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 136-139;

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Dec. Dig. § 109.* 12 Va.-W. Va. Enc. Dig. 777; 14 Va.-W. Va. Enc. Dig. 954.]

3. Statutes (§ 141*)—Amending Acts—Reference to Amended Act —“Title.”—Acts 1914, c. 107, which is entitled an act to amend a certain act therein specified, and the exacting clause of which provides that section 12 be amended so as to read as follows, sufficiently complies with Const. 1902, § 32, which provides that no law shall be revived or amended with reference to its title, but the act shall be re-enacted and published at length, since the title, which is defined as that part of an act by which it is known and distinguished from other acts, may be referred to to identify the act amended.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 48, 198, 209; Dec. Dig. § 141.* 12 Va.-W. Va. Enc. Dig. 777; 14 Va.-W. Va. Enc. Dig. 954.]

For other definitions, see Words and Phrases, First and Second Series, Title.]

4. Highways (§ 93*)—District Officers—Qualifications—Freehold.—The provision of Acts 1910, c. 106, that two of the members of each district road board must be freeholders, is contrary to Const. 1902, § 32, providing that every person qualified to vote shall be eligible to any office, and renders invalid so much of that act as relates to the appointment and powers of the district road boards.

[Ed. Note.—For other cases, see Highways, Cent. Dig. §§ 304-307; Dec. Dig. § 93.* 12 Va.-W. Va. Enc. Dig. 930.]

Appeal from Circuit Court, Fauquier County.

Suit by E. M. Spilman against the District Road Board of Center Magisterial District of Fauquier County. Decree for the plaintiff, and defendant appeals. Modified and affirmed.

John S. Barbour, of Fairfax, and *Keith & Richards* and *G. Latham Fletcher*, all of Warrenton, for appellant.

William Horgan, of Warrenton, for appellee.

VIRGINIA RY. & POWER CO. *v.* SMITH.

March 11, 1915.

[84 S. E. 641.]

1. Municipal Corporations (§ 705*)—Use of Streets—Negligence—Wagons Having Right of Way.—The driver of defendant's repair wagon, which under an ordinance had the right of way on sounding its gong, requiring other vehicles aware of its approach to stop on the extreme right of the street, while hurrying to repair a fallen trolley wire, and while continuously sounding the gong, observed the danger of a collision with an automobile on the right side of the

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.